

2. **LEGISLATION AND EXECUTIVE ORDERS**

A. **Brownfields Revitalization and Environmental Restoration Act of 2001 (S.350)**

On April 25, 2001, the U.S. Senate voted 99-0 to approve legislation (S.350) that would amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance state response programs, and for other purposes. S.350, titled the “Brownfields Revitalization and Environmental Restoration Act of 2001,” includes the following provisions:

1. Provides for grants to eligible entities for inventorying, characterizing, assessing, remediating, and conducting planning related to brownfield sites. Defines a “brownfield site,” with exceptions, as real property, the expansion, redevelopment, or reuse of which is complicated by the presence or potential presence of a hazardous substance or pollutant.
2. Exempts from liability under CERCLA certain owners of real property contiguous to property on which there has been a hazardous substance release or threatened release that is not owned by such persons.
3. Absolves from liability for response actions bona fide prospective purchasers to the extent liability at a facility for a release or threat thereof is based solely on ownership or operation of a facility. Gives a lien upon a facility to the United States for unrecovered response costs in any case for which the owner is not liable by reason of this legislation and the facility’s fair market value has increased above that which existed before the action was taken.
4. With respect to defenses to liability of an owner of after-acquired property, deems that a person has undertaken appropriate inquiry into the property’s previous ownership and uses if the person demonstrates that inquiries were undertaken in accordance with certain specified requirements.
5. Adds CERCLA provisions authorizing the Administrator of the U.S. Environmental Protection Agency (EPA) to award grants to states or Indian tribes to establish or enhance response programs comprised of elements such as survey and inventory of brownfield sites, public participation opportunities, oversight and enforcement authorities, and certification mechanisms. Authorizes appropriations.
6. Restricts authority to take enforcement actions under CERCLA in cases of hazardous substance releases addressed by a state response plan. Authorizes the President to bring enforcement actions in certain instances, including cases where a state requests assistance, where there is a migration of contamination across state lines or onto federal property, or there is an imminent and substantial endangerment to public health or welfare or the environment and additional response actions are likely to be necessary.

7. Requires the President to defer listing of an eligible response site on the National Priorities List if the state is conducting a response action in compliance with a state response program that will provide long-term health and environmental protection or is actively pursuing an agreement to perform such an action with a capable person. Requires reasonable progress toward completion of actions for deferral of listing. Permits the President to decline to defer or to discontinue a deferral under certain specified conditions.

For further information, contact the office of Senator Lincoln D. Chafee, U.S. Senate, Washington, DC 20510-3902, (telephone: (202) 224-2921).

B. Energy-Related Executive Orders (E.O. 13211 and E.O. 13212)

On May 18, 2001, President Bush signed two executive orders concerning energy-related issues as follows:

1. E.O. 13211 is titled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. E.O. 13211 enunciates the policy that the federal government can significantly affect the supply, distribution, and use of energy. Yet there is often too little information regarding the effects that governmental regulatory action can have on energy. In order to provide more useful energy-related information and hence improve the quality of agency decision-making, the Order requires that agencies prepare a Statement of Energy Effects when undertaking certain agency actions. Such Statements of Energy Effects shall describe the effects of certain regulatory actions on energy supply, distribution, or use and shall be submitted to the Administrator of the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget.
2. E.O. 13212 is titled *Actions to Expedite Energy-Related Projects*. E.O. 13212 establishes the policy that the increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people. In general, it is the policy of the Bush Administration that executive departments and agencies shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy. For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections.

For further information, contact the Administrator, Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 17th Street and Pennsylvania Avenue, NW, Washington, DC 20503, (telephone: (202) 395-4852).